

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MARCOS A. ZURINAGA,) Case No. CV 08-6626-GAF(RC)
)
Petitioner,)
)
vs.) (1) ORDER ADOPTING REPORT AND
) RECOMMENDATION OF UNITED STATES
MICHAEL A. SMELOSKY,) MAGISTRATE JUDGE; AND
) (2) ORDER DENYING CERTIFICATE OF
Respondent.) APPEALABILITY
_____)

Pursuant to 28 U.S.C. Section 636, the Court has reviewed the petition and other papers along with the attached Report and Recommendation of United States Magistrate Judge Rosalyn M. Chapman, as well as petitioner's objections, and has made a de novo determination.

IT IS ORDERED that (1) the Report and Recommendation is approved and adopted; (2) the Report and Recommendation is adopted as the findings of fact and conclusions of law herein; and (3) Judgment shall be entered denying the petition and dismissing the action with prejudice.

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1 This Court finds an appeal would not be taken in good faith, and
2 that petitioner has not made a substantial showing that he has been
3 denied a constitutional right, for the reasons set forth in the Report
4 and Recommendation of the United States Magistrate Judge; accordingly,
5 a certificate of appealability should not issue under 28 U.S.C.
6 § 2253(c)(2) and Fed. R. App. P. 22(b). Slack v. McDaniel, 529 U.S.
7 473, 483, 120 S. Ct. 1595, 1604, 146 L. Ed. 2d 542 (2000); Mayfield v.
8 Calderon, 229 F.3d 895, 900 (9th Cir. 2000).

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10 IT IS FURTHER ORDERED that the Clerk shall serve copies of this
11 Order, the Magistrate Judge's Report and Recommendation and Judgment
12 by the United States mail on the parties.

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14 DATED: November 24, 2010_____



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16 GARY A. FEESS
17 UNITED STATES DISTRICT JUDGE
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